

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20348
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2006. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed a circuit breaker application on March 10, 2006. The application was approved, and the petitioner received a property tax reduction benefit.

Idaho Code §§ 63-707 and 63-708 provide for audit of all claims and recovery of benefits that have been paid in error. During review of the petitioner's application and [Redacted] records, the staff discovered ownership of the property was in the name [Redacted].

63-701. Definitions. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

. . .

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home.

Idaho Code § 63-701 requires the subject property to be owner-occupied and used as the primary dwelling place of the claimant for the property tax reduction benefit. Because the recorded owner of the property was a trust, the staff sent the petitioner a letter requesting proof of ownership. The petitioner provided a copy of the trust agreement for review.

In the Notice of Deficiency Determination dated May 14, 2007, the staff advised the petitioner of the determination that she should repay the property tax reduction benefit she received in 2006 because she did not qualify as “claimant” according to Idaho Code § 63-701 which provides in pertinent part:

63-701. Definitions. As used in this chapter:

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or . . .

In response to the notification, the petitioner’s granddaughter sent a letter of protest. The petitioner’s file was transferred to the Legal/Tax Policy Division for administrative review, and a letter was sent to the petitioner to advise her of her appeal rights. On July 16, 2007, the petitioner’s granddaughter telephoned the Tax Commission to ask if a decision had been made regarding the appeal. She said her grandmother had been moved to a care facility.

To qualify as a claimant for circuit breaker purposes, the applicant must be the owner of a homestead on January 1 of the year in which the claim was filed. The records show the owner of the subject property on January 1, 2006, was [Redacted] Trust.

The [Redacted] Trust states:

1-3.3: No Benefit for the Grantor. No part of the principal of the trust or the income thereon shall be used or expended for the benefit to the grantor, the grantor's estate, any transferor of property to the trust, or the estate of the transferor of property to the trust, or the estate of any transferor of property to the trust.

For a claimant to qualify as owner of a property held in trust, the claimant must be named as beneficiary of that trust. A review of The [Redacted] Trust shows [Redacted] the grantor of the trust.

The trust states there is no benefit for the grantor. Because [Redacted], the petitioner, is not a beneficiary of the trust, she does not meet the definition of owner for the purposes of the 2006 property tax reduction benefit.

The [Redacted] Trust is not a natural person, a partnership, a firm, or a corporation. It is an association. An association is a person. Idaho Code § 63-116. The [Redacted] Trust is the "person" holding title to the property for which the property tax reduction benefit has been paid. [Redacted] was the person occupying the property. The [Redacted] Irrevocable Trust and [Redacted] are not the same person. Therefore, the property is not owner-occupied and, for this reason also, the petitioner did not qualify for the property tax reduction benefit. Repayment of the benefit is appropriate. On August 22, 2007, the petitioner submitted payment in full, so no demand for payment is made.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners under Idaho Code § 63-711--the hardship exemption.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
[Redacted]

Receipt No.